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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,575	07/02/2003	William A. Montemer	ICHGP006	4267
21912	7590	11/13/2006		
VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014				
			EXAMINER MYINT, DENNIS Y	
			ART UNIT 2162	PAPER NUMBER

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/612,575

**Applicant(s)**

MONTEMER, WILLIAM A.

**Examiner**

Dennis Myint

**Art Unit**

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 2-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-211 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 September 2006 has been entered.

2. The amendment filed on 22 September 2006 has been received and entered. Claims 2, 17, and 20 were amended. Claims 2, 17, and 20 are independent claims. As such, claims 2-21 are pending.

### ***Response to Arguments***

3. Applicants' arguments with respect to the rejection under 35 U.S.C. § 103 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 2-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

**MPEP 2106 IV.B.2.(b)** states that “a claim that requires one or more acts to be performed defines a process. However, not all processes are statutory under 35 U.S.C. 101. Schrader, 22 F.3d at 296, 30 USPQ2d at 1460. To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application within the technological arts”.

**MPEP 2106.II.A** states that “a process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994)”.

Claims 2 and 20 in view of the above-cited MPEP sections are not statutory because they merely recite a number of computing steps without producing any tangible results and/or being limited to practical application within the technological arts. The limitation, “*crediting to an entity that received a corresponding bid amount of the selected listing from an advertiser, a portion less than that full amount of the corresponding selected listing bid amount received from the advertiser for advertising the listing*” fails to produce any tangible results.

Claim 17 in view of the above-cited MPEP sections are not statutory because

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they merely recite a number of computing steps without producing any tangible results and/or being limited to practical application within the technological arts. The limitation, *“credit to an entity that received a corresponding bid amount of the selected listing from an advertiser, a portion less than that full amount of the corresponding selected listing bid amount received from the advertiser for advertising the listing”* fails to produce any tangible results.

Claims 3-16, 18-19, and 21 are rejected under 35 U.S.C. 101 because the claims depend on claims 2, 17, and 20 respectively.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-5, 17-18, and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheung et al. (hereinafter "Cheung") (U.S. Patent Application Publication Number 2002/0169760) in view of Carr JR. et al., (hereinafter "Carr") (U.S. Patent Application Publication Number 2002/0152099).

Referring to claim 2, Cheung teaches the limitations:

A method, comprising:

"receiving one or more bid amounts for a keyword, wherein each bid amount is associated with a listing" (Paragraph 0025, Paragraph 0104, and Paragraphs 0091-0093);

"returning one or more listings responsive to a query associated with the keyword, wherein the listings are organized in an order associated with the respective bid amounts of the responsive listings" (Paragraphs 0028 and 0106); and

"receiving an indication that a selected listing included in the responsive listings has been selected" (Paragraphs 0104-0105);

“crediting to an entity that received a corresponding bid amount of the selected listing from an advertiser” (Paragraph 0025, i.e., *the concept of a bid which corresponds to economic value which the advertiser will give when network location associated with the advertiser is referred to a searcher in response to a query from the searcher*; Paragraph 0028, i.e., *Search listings include one more of a search term and a bid/desired rank associated with the search term*; Paragraph 0118, i.e., *payment type*; and Paragraphs 00240-0248, i.e., *end procedure*).

Cheung does not explicitly disclose the limitation:

“a portion less than the full amount of the corresponding selected listing bid amount” .

Carr teaches the limitation:

“crediting to an entity (Paragraph 0010, i.e., *a referral by an existing member entity, a referral from a third party vendor, a physical inspection of a particular market or submarket to identify one or more qualified commercial office buildings.....* ) that received a corresponding bid amount of the selected listing from an advertiser (advertiser maps to *the plurality of independently owned commercial office buildings in* Paragraph 0009), a portion less than the full amount of the corresponding selected listing bid amount” (Paragraphs 0009, Paragraph 0010, Paragraph 0020, and Paragraph 0034).

Carr teaches a method, which aggregates the plurality of independently, owned commercial office buildings under single brand identity and markets the plurality of independently commercial office buildings on a regional and nationwide basis

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(Paragraph 0009). Carr also teaches that *these vendors will be required to pay the ACME Office business network annual **marketing fees*** (advertising fee is inherent in marketing fees) *or other associated revenues* (Paragraph 0034). Carr additionally discloses in Paragraph 0034 that *Examples of the types revenue enhancement opportunities that ACME official would enter into include advertising and distribution channel alliances*. Even further more, Carr teaches in the same paragraph that *Each alliance negotiated by ACME Office for the benefit of its plurality of members entities typically would include **an allocation of some portion of the revenues** generated by the vendor from each participating member entity's office buildings to ACME Office*.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the method of Cheung with the feature of revenue sharing as taught by Carr so that the combined method would comprise crediting to an entity that received a corresponding bid amount of the selected listing from an advertiser, a portion less than the full amount of the corresponding selected listing bid amount. One would have been motivated to do so in order because revenue sharing among good/services providers by pooling goods and services is a well known business practice.

Claims 17 and 20 are rejected on the same basis as claim 2.

Referring to claim 3, Cheung in view of Carr teaches the limitation:

"further comprising crediting to a provider that returned the local business listings responsive to the query a portion less than the full amount of the corresponding



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selected listing bid amount” (Carr, Paragraphs 0009-0010 and Paragraph 0034). Carr teaches revenue sharing, said revenue having been derived from advertising/marketing and distributed to a third party, which made a referral. Particularly note Paragraph 0009-0010.

Claim 18 and 21 are rejected on the same basis as claim 3.

Referring to claim 4, Carr teaches the limitation:

“wherein addition of the portion credited to the entity and the portion credited to the provider equals the full amount of the corresponding selected listing bid amount” (Paragraph 0009-010 and Paragraph 0034).

Referring to claim 5, Cheung teaches the limitation:

“wherein the listing is one or more of the following: a directory assistance listing and a local business listing” (Paragraph 0014-0015 and 0091).

8. Claim 6-7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheung in view of Carr and further in view of Reichardt et al. (hereinafter “Reichardt”) (U.S. Patent Application Publication Number 2002/0124255).

Referring to claim 6, Cheung in view of Carr does not explicitly teach the limitation: “wherein at least one of the one or more bid amounts is based at least in part on a time value”.

Reichardt teaches the limitation: "wherein at least one of the one or more bid amounts is based at least in part on a time value" (Paragraph 0086 and 0090).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add the feature of listings based on time-slots as taught by Reichardt to the method of Cheung in view of Carr so that in the resultant method bid amount for listings will be based on a time value. One would have been motivated to do so in order to enhance advertising and merchandising opportunities (Reichardt, Paragraph 0009).

Claim 19 is rejected on the same basis as claim 6.

Referring to claim 7, Reichardt teaches the limitation:

"wherein the time value is associated with a time at which a corresponding listing is selected" (Paragraph 0086 and 0090).

9. Claim 8-10, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheung in view of Carr and further in view of Bedingfield SR (hereinafter "Bedingfield") (U.S. Patent Application Publication Number 2004/0260604).

Referring to claim 8, Cheung in view of Carr does not explicitly disclose the limitation: "wherein at least one of the one or more bid amounts is based at least in part on a distance value".

Bedingfield teaches the limitation:

“wherein at least one of the one or more bid amounts is based at least in part on a distance value” (Figure 5, Paragraph 0008-0009 and 0021, i.e. *The selected one or more advertiser entries may be presented based on at least in part on the user measured location information and the advertiser measured location information of the selected one or more advertiser entries.*).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add the feature of listings based on distances as taught by Bedingfield to the method of Cheung in view of Carr so that the resultant method would also comprise bid amounts which are based at least in part on a distance value. One would have been motivated to do so in order to provide location-based services (Bedingfield, Paragraph 0005).

Referring to claim 9, Bedingfield teaches the limitation:

“wherein the distance value is associated with the distance between a location associated with a listing and a location associated with one or more of the following: the query, a user of the query, and the provider” (Figure 5, Paragraph 0008-0009 and 0021, i.e. *The selected one or more advertiser entries may be presented based on at least in part on the user measured location information and the advertiser measured location information of the selected one or more advertiser entries.*).

Referring to claim 10, Bedingfield teaches the limitation:

"wherein the listings are responsive to the query only if the listings are associated with a location within a distance value from a location associated with one or more of the following: the query, a user of the query, and the provider" (Paragraphs 0021-0025).

Referring claim 14, Bedingfield is directed to the limitation:

"wherein query is associated with an interactive voice response system"  
(Paragraph 0004).

10. Claim 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheung in view of Carr and further in view of Ponte (U.S. Patent Number 7047242).

Referring to claim 11, Cheung in view of Carr does not explicitly teach the limitation: "wherein receiving the one or more bid amounts for the keyword includes synchronizing a shared database with one or more databases of one or more entities from which the one or bid amounts are received."

Ponte teaches the limitation:

"wherein receiving the one or more bid amounts for the keyword includes synchronizing a shared database with one or more databases of one or more entities from which the one or bid amounts are received" (Figure 4, Column 5 Line 59 through Column 6 Line 41, Figure 31, Column 57 Lines 7-17, and Column 60 Lines 51-56).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add the feature of a shared database which is connected to one or more databases for business listings as taught by Ponte to the method of

Cheung in view of Carr so that the resultant method would comprise receiving the one or more bid amounts for the keyword includes synchronizing a shared database with one or more databases of one or more entities from which the one or bid amounts are received. One would have been motivated to do so in order to target a wide range of users who may be interested in a wide range of goods and services (Ponte, Column 1 Lines 3-36).

Referring to claim 12, Official Note is taken that the concept of synchronizing databases periodically is notoriously well known in the art.

Referring to claim 13, Ponte is direct to the limitation:

“wherein the databases of entities includes at least two databases of different formats that synchronize with the same shared-database” (Ponte, Figure 4).

11. Claim 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheung in view of Carr and further in view of Tibbetts (U.S. Patent Number 6158044).

Referring to claim 15, Cheung in view of Walker does not explicitly teach the limitation: “wherein crediting to the entity includes placing transaction data in a queue”.

Tibbetts teaches the limitation:

“wherein crediting to the entity includes placing transaction data in a queue”  
(Column 10 Lines 13-16).

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At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add the feature of transaction queuing as taught by Tibbetts to the method of Cheung in view of Carr so that the resultant method would comprise transaction queuing. One would have been motivated to do so simply because transaction queuing is well known in the art.

Referring to claim 16, Tibbetts teaches the limitation:

"wherein the transaction data is associated with a metadata that can be used to recover the crediting from a failure" (Column 11 Line 20 through Column 12 Line 16 and Column 25 Lines 10-20).

## **Conclusion**

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows.

U.S. Patent Application Publication Number 2003/0182171 (Vianello)

U.S. Patent Application Publication Number 2001/0052132 (Freyer)

U.S. Patent Application Publication Number 2002/00461159 (Raveis JR.)


**Contact Information**

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Myint whose telephone number is (571) 272-5629. The examiner can normally be reached on 8:30AM-5:30PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dennis Myint  
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